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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,668

10/17/2003

Gregg L. Shetty

TN-3305

2621

7590
Black & Decker Inc.
701 E. Joppa Road, TW-199
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06/21/2007

EXAMINER

BLAKE, CAROLYN T

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

06/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/688,668

Applicant(s)

SHEDDY ET AL.

Examiner

Carolyn T. Blake

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 66-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 66-69 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the amendment and remarks filed on March 12, 2007.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

3. The drawings are objected to because a better depiction of the stationary switch is required. For example, an enlarged view illustrating the switch, the support assembly, and any additional structure that allows the switch to remain stationary would be extremely helpful in better understanding Applicant's invention. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (6,272,961) in view of O'Banion (2001/0000856), Tebbe (6,119,677), and Gilbert (3,298,097).

Lee discloses the device substantially as claimed, including a saw comprising: a base (50); a frame assembly (20) disposed on the base (50); a first rail (221) disposed on the frame assembly (20), the first rail (221) having a longitudinal axis; a table (30) slidably disposed on the first rail (221), the table (30) being movable in a direction substantially parallel to the longitudinal axis; a saw assembly (60) disposed on at least one of the base (50) and the frame assembly (20), the saw assembly (60) comprising a support assembly (23), a motor assembly (41) pivotably supported by the support assembly (23), the motor assembly (41) being pivotable about a pivot axis substantially parallel to the longitudinal axis, and a cutting wheel (42) driven by the motor assembly (41), the cutting wheel (42) having a plane substantially parallel to the pivot axis; and a switch (on controlling head 45) electrically connected to the motor assembly (41).

Lee fails to disclose the switch remains stationary when the motor is pivoted. However, O'Banion, Tebbe, and Gilbert disclose saws comprising a switch electrically connected to a motor assembly and disposed on a support assembly so that, when the motor assembly is pivoted or moved with the blade, the switch remains stationary. Regarding the O'Banion reference, see blade 17, switch 202B, and motor 19. In Tebbe,

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see blade 27, switch 75, and motor 22. Finally, see blade 68, switches 46/48, and motor 66 in the Gilbert reference. With a stationary switch, an operator (or observer) can always find the switch during any stage of a cutting operation. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a stationary switch, as taught by O'Banion, Tebbe, and Gilbert, on the Lee saw in order find the switch during any stage of a cutting operation.

In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the switch in an alternative location in order to accommodate dexterity, eye coordination, standing position of the operator, ease of manufacturing, or position of the work piece and/or product since it has been held the shifting of parts to different positions is a known variable. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Regarding claim 2, Lee discloses the first rail (221) has a first end, and the table (30) is movable beyond the first end.

Regarding claim 3, Lee discloses the table (30) is movable beyond the base (50).

Regarding claim 4, Lee discloses the base (50) is formed as a tub.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of O'Banion, Tebbe, and Gilbert as applied to claim 1 above, and further in view of Klingens (2,691,398).

The modified Lee device fails to disclose the frame is made of aluminum. However, Klingens discloses a saw wherein the frame is made of aluminum. Aluminum is a good material choice for a sturdy component such as a frame because it can be

easily used in casting operations. See col. 2, lines 29-34. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use aluminum for the frame, as disclosed by Klingens, on the modified Lee device because aluminum can be easily used in casting operations.

Allowable Subject Matter

6. Claims 66-69 are allowed.

Response to Arguments

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

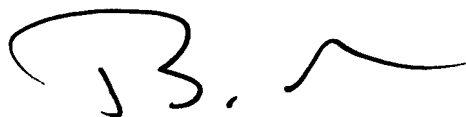
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Thursday, 7:00 AM to 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CB
June 5, 2007

A handwritten signature in black ink, appearing to read 'B. Ashley', with a stylized flourish at the end.

BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER